

Mr. Chan Pongkhamsing  
CWA 404 Enforcement Coordinator  
Office of Compliance and Enforcement  
U.S. EPA, Region 10  
1200 Sixth Avenue, Mail Stop OCE-101  
Seattle, Washington 98101

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Dear Mr. Chan Pongkhamsing,

Within your last email, you indicated that the Environmental Protection Agency was launching an investigation of the prescription scheme used to repeatedly violate the Federal Clean Water Act within the Yakima area. You mentioned that you would be obtaining responses from individuals that are entangled with the prescription scheme. In addition, you mentioned that you would continue to partner with the State of Washington Department of Ecology, an agency already entangled with the scheme to prevent enforcement of the Federal Clean Water Act following well-documented environmental crimes involving Shaw Creek and involving Wide Hollow Creek.

Given that the EPA is obtaining statements from individuals, I have created a document that attempts to describe the role of various individuals who are entangled with the Clean Water Act violations. As you obtain responses from individuals, you may find it helpful to review the provided narratives that describe the roles of these individuals with the prescription scheme. Needless to say, the EPA will need to separately verify facts. Please see the associated document dealing with individuals and agencies involved with the prescription scheme.

The EPA must proceed with caution and awareness when dealing with the State of Washington Department of Ecology; Ecology is significantly entangled with the scheme to prevent enforcement of the Federal Clean Water Act. Ms. Catherine Reed (Ecology) has knowingly delivered falsified and unlawful wetland studies (i.e. July 2016; Shaw

Creek) to the USACE in an ongoing effort to dupe USACE officials into believing that the location of the man-made ditch under unlawful use is the location of the jurisdictional Shaw Creek watercourse. Given that Ecology is an active participant in the scheme to prevent enforcement of the Federal Clean Water Act, the EPA must consider that Ecology officials may not provide lawful or truthful responses during an EPA investigation of Clean Water Act violations and the prescription scheme.

Ecology funded the Shaw Creek floodplain studies that allowed Yakima County to win a \$2.7 million FEMA grant. Ecology subsequently released the \$2.7 million FEMA grant to Yakima County. Ecology funded a \$498,000 Centennial grant for this flood-control project despite the fact that Centennial grant funds are barred from use on flood-control projects. And Ecology issued a Floodplain-by-Design grant for the proposed Yakima County flood control project. Essentially, Ecology has been involved with all of the funding for the proposed Shaw Creek Flood control project that was facilitated by well-documented Shaw Creek Clean Water Act violations of 2012. Ecology has repeatedly provided flood-control funding and has simply ignored environmental crimes of 2012.

The EPA must be fully aware that Ecology is a major proponent and funding-agency for the proposed Shaw Creek flood control project. In addition, the EPA must be aware that Ms. Catherine Reed (Ecology) has participated in the scheme to prevent enforcement of the Federal Clean Water Act. While the EPA ordinarily heavily relies upon close cooperation with Ecology to enforce the Federal Clean Water Act, the EPA must be aware that Ecology is significantly involved with violations of environmental laws within the Yakima Area.

You must also consider that Clean Water Act discovery will serve to reveal the scope of the prescription scheme that is used to repeatedly violate the Federal Clean Water Act. Mr. Greg Bainter (Bainter Group LLC) is named as a defendant with well-documented violations of the Federal Clean Water Act involving Shaw Creek in 2012. In fact, Mr. Bainter (along with Yakima County, the Washington Department of Fish & Wildlife, and the City of Yakima) utilized the prescription scheme to pre-plan and implement the Clean Water Act violations of 2012. In addition, Mr. Bainter and others utilized the prescription

scheme in 2015 to pre-plan additional Shaw Creek Clean Water Act violations. The EPA will likely find it helpful to review hard-copies of evidence, interrogatories, and depositions (i.e. from existing Clean Water Act litigation) that will likely provide abundant proof of the prescription scheme and the related violations of the Federal Clean Water Act. A great deal of evidence (materials demanded from violators; interrogatories; depositions) will be obtained during the next six months; these materials will likely assist the EPA as the prescription scheme is investigated.

You also mentioned that the State of Washington Attorney General might be enlisted to provide enforcement of the Federal Clean Water Act and to dismantle the prescription scheme. In response, I indicated that the US Department of Justice might be a more appropriate agency to dismantle the State of Washington prescription scheme that is used to repeatedly violate the Federal Clean Water Act. As you know, the State of Washington Department of Fish & Wildlife creates the prescriptions that pre-plan and implement violations of the Federal Clean Water Act. And Ecology is providing the funding for the flood-control project that has been facilitated by preemptive habitat destruction in advance of planned development (including well-documented violations of the Clean Water Act). The State of Washington Attorney General would not be expected to provide meaningful action against other State of Washington agencies (i.e. WDFW, Ecology). So the Department of Justice might be a more appropriate agency to ensure that the prescription scheme is dismantled.

The EPA is aware that a citizen lawsuit, filed under the Federal Clean Water Act, is designed to address the Shaw Creek Clean Water Act violations of 2012. Currently, in order to find appropriate jurisdiction, the EPA might use the Wide Hollow Creek Clean Water Act violations of 2014-2015 (unlawful dredge; unlawful channel excavation; unlawful use of imazapyr – FIFRA violation) as a means to investigate the prescription scheme, enforce the Federal Clean Water Act, and dismantle the prescription scheme. Ostensibly the statute of limitations will expire for the Wide Hollow Creek Clean Water Act violations in 2019. On the other hand, given that unlawful flows of water within newly excavated “finger-channels” are ongoing violations of the Federal Clean Water Act, a Federal judge would likely rule that a five year, fixed, statute of limitations does

not exist at the site of Wide Hollow Creek Clean Water Act violations (Yakima County; 2014-2015; S. 96<sup>th</sup> Avenue).

Existing evidence affirms that a prescription scheme is repeatedly used to pre-plan and implement violations of the Federal Clean Water Act. The EPA will likely affirm this evidence. The EPA should expect that ongoing discovery, involving 2012 Shaw Creek Clean Water Act violations, will expose new materials and new facts that bear-upon the unlawful prescription scheme created by the State of Washington that is used to pre-plan and implement violations of the Federal Clean Water Act. The extensive narrative, now provided to the EPA, has been prepared to assist the EPA with the investigation and dismantling of the prescription scheme used to violate the Federal Clean Water Act.

Sincerely,

Matthew Seaman

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